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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Implementation of Section 402(b)(2)(A) of) CC Docket No. 97-11
the Telecommunications Act of 1996)

COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY

Southwestern Bell Telephone Company (SWBT), by and through its attorneys, pursuant to the Notice of Proposed Rulemaking (the NPRM) in this docket, hereby files its Comments upon the NPRM's proposal to eliminate certain Section 214 requirements.

SUMMARY OF COMMENTS

SWBT proposes that the Commission define all line augmentations as line "extensions", thereby exempting all additions to a carrier's network from the requirements of Section 214(a). These Section 214 requirements are no longer necessary in the competitive marketplace. In the event these Section 214 requirements are not eliminated, SWBT supports the Commission's tentative conclusion to forbear from applying Section 214 requirements regarding "new" lines to price cap carriers.

SWBT further submits that Section 214 requirements regarding reports and discontinuances also constitute unnecessary regulatory burdens and should be eliminated.

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I. **ALL LINE ADDITIONS SHOULD BE CONSIDERED “EXTENSIONS” AND THEREFORE EXEMPT FROM SECTION 214 REQUIREMENTS**

Section 402(b)(2)(A) exempts common carriers from the requirements of Section 214 “for the extension of any line.” In the NPRM, the Commission addressses how to define line “extension”. Specifically, the Commission analyzes how to distinguish between “new” lines and “extensions” of existing lines. In considering the alternatives, the Commission questions whether such a distinction is necessary. One option it considers is eliminating the distinction between “new” lines and line “extensions” and defining all line additions as “extensions”. The proposed definition states:

“[E]xtension of any line” include[s] (ii) any augmentation of lines in a carrier’s network, heretofore subject to Section 214 certification, without distinguishing “new” lines from “extensions.” Such a definition would be consistent with the Commission’s historic treatment of “new” lines and “extensions” as one uniform group, without subdivision. Under such a definition, the Commission would exempt all additions to a carrier’s network from the requirements of Section 214.”¹

SWBT agrees with this proposed definition of line “extension”. SWBT submits that this interpretation is supported by the title of Section 214 itself, which is captioned “Extension of Lines” with no reference to a distinction for “new” lines.

In addition, SWBT believes this proposed definition will further the Commission’s quest to eliminate burdensome regulatory requirements.² As the Commission recognizes, Section 214 requires a potentially lengthy Commission review and disclosure of potentially competitively

¹NPRM para. 35(ii)

²NPRM para. 43

sensitive information to rivals.³ Section 214 was enacted to prevent telephone companies from overinvesting in facilities and passing on increased costs to telephone ratepayers.⁴ Section 214 review is no longer necessary because both the rate regulation system and the new era of competition ensure that carriers have little economic incentive or ability to invest in wasteful or duplicative facilities. Pursuant to Section 402(b)(2)(A), all Section 214 requirements as to line additions will be eliminated by adopting a definition which treat all line additions as extensions. Elimination of these Section 214 requirements will enable carriers to better serve customers by introducing new services faster and at lower rates.

In the event the Commission elects not to adopt a definition eliminating the distinction between “new” lines and “extensions” of lines, SWBT agrees with the Commission’s proposal to forbear from applying Section 214 requirements regarding “new” lines to price cap carriers. The Commission correctly concludes that forbearance is the appropriate course whether the carrier adopts a sharing or no sharing option.⁵ Regardless of the sharing option, the very nature of price cap regulation reduces the incentive for a carrier to overinvest in facilities. Moreover, the Commission correctly recognizes that increased competition for local exchange and interstate access will provide additional incentives for price-cap carriers to increase efficiency.⁶ In short, SWBT believes Section 214 requirements for line additions are unnecessary and should be

³NPRM para. 48

⁴NPRM para. 1, 44

⁵NPRM para. 41

⁶NPRM para. 41

eliminated. In the event such requirements are not eliminated, forbearance from applying them to price cap carriers is an acceptable alternative.

II. SECTION 214 REPORTING REQUIREMENTS SHOULD BE ELIMINATED

SWBT agrees with the Commission's proposal to eliminate certain reports required under the current rules. The Commission correctly recognizes that these reports constitute an unnecessary regulatory requirement.⁷ These reports include the annual continuing authority report for small projects required by Section 63.03(e) and the semiannual report for continuing authority to provide temporary or emergency service under Section 63.04(c).⁸

III. SECTION 214 DISCONTINUANCE REQUIREMENTS SHOULD BE ELIMINATED

To further the Commission's goal to "eliminate any unnecessary barriers to exit currently imposed by the rules"⁹, SWBT advocates elimination of all Section 214 discontinuance requirements. The Act was designed to foster competition and reduce regulation. Reducing regulation is more than making government more cost effective. Reducing regulation maximizes the public interest benefits Congress intended its pro-competitive policies to produce. The exit restrictions contained in Section 214(a) constitute the type of unnecessary regulation no longer needed in a competitive marketplace.

As the Commission recognizes, the universal service support mechanisms already serve to protect consumers from discontinuances when there is only one carrier serving a particular

⁷NPRM para. 63-64

⁸NPRM para. 63-64

⁹NPRM para. 70

community.¹⁰ No additional rules, other than the protections already existing pursuant to the universal rules are necessary or desirable. In fact, additional Section 214 discontinuance requirements are unnecessarily duplicative and place an unnecessary burden on carriers and the Commission.

If the Commission continues to regulate discontinuances¹¹, the only requirement that would offer any potential benefit is a rule requiring notification prior to exit. The Commission could require carriers to give customers reasonable notice of an intent to exit. As a matter of public policy, the Commission's rules must permit competitive telecommunications markets to operate like other competitive businesses. It is a natural consequence of a competitive marketplace that some companies may go out of business or exit certain market areas. As long as more than one carrier is serving the area¹² and customers are provided with reasonable advance notice, customers will not be harmed if a carrier no longer finds it profitable to serve a

¹⁰NPRM para. 71

¹¹If the Commission does not eliminate the Section 214 discontinuance requirements, it should at least forbear from imposing the requirements on domestic common carriers.

¹²As discussed above, in situations where there is only one carrier serving a particular marketplace, the universal service rules afford adequate protection so that customers are not in a situation where they have no opportunity to acquire service. Section 214 (e)(4) provides an additional safeguard in high cost markets where a carrier is receiving federal universal service support. An eligible carrier receiving support cannot exit the universal service area unless another carrier is also serving the area. In situations where multiple carriers are receiving federal support, Section 214(e) requires a balancing of the carriers desire to exit with the public interest issues associated with universal service. Unlike Section 214(a), a carrier that relinquishes its designation as an eligible carrier for a particular universal service area, may not intend to completely withdraw its service. The carrier may simply intend to serve an area smaller than the area designated by the state to be the universal service area.

particular market area and chooses to exit the market. The remaining carriers will see an increase in their market share until new competitors enter the market.

In the event the Commission continues to require carriers to comply with Section 214 discontinuance requirements, SWBT supports the streamlined discontinuance procedures set forth in Section 63.71. SWBT disagrees, however, with the proposal to extend the notification period from 30 to 60 days for domestic dominant carriers. SWBT believes it is unfair to impose more burdensome restrictions on dominant carriers. SWBT suggests that the same rules must apply to all domestic carriers who choose to exit a market.

V. **CONCLUSION**

For all the foregoing reasons, SWBT respectfully requests the Commission to adopt its Comments in this docket.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Liz Jensen, hereby certify that the foregoing,
Comments of Southwestern Bell Telephone Company, in CC
Docket No. 97-11, have been served this 24th day of
February, 1997 to the Parties of Record.

Liz Jensen

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February 24, 1997

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